

The Government intends to include provisions/clauses substantially the same as those below in the solicitation entitled "ORE Enforcement and Technical Support Services."

ORGANIZATIONAL CONFLICTS OF INTEREST ALTERNATE I EPAAR 1552.209-71 (SECTION H)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) Prior to commencement of any work, the Contractor agrees to notify the Contracting Officer immediately that, to the best of its knowledge and belief, no actual or potential conflict of interest exists or to identify to the Contracting Officer any actual or potential conflict of interest the firm may have. In emergency situations, however, work may begin but notification shall be made within five (5) working days.

(c) The Contractor agrees that if an actual or potential organizational conflict of interest is identified during performance, the Contractor will immediately make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict of interest. The Contractor shall continue performance until notified by the Contracting Officer of any contrary action to be taken.

(d) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose it or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

NOTIFICATION OF CONFLICTS OF INTEREST REGARDING PERSONNEL ALTERNATE I EPAAR 1552.209-73 (SECTION H)

(a) In addition to the requirements of the contract clause entitled "Organizational Conflicts of Interest," the following provisions with regard to employee personnel performing under this contract shall apply until the earlier of the following two dates: the termination date of the affected employee(s) or the expiration date of the contract.

(b) The Contractor agrees to notify immediately the EPA Project Officer and the Contracting Officer of (1) any actual or potential personal conflict of interest with regard to any of its employees working on or having access to information regarding this contract, or (2) any such conflicts concerning subcontractor employees or consultants working on or having access to information regarding this contract, when such conflicts have been reported to the Contractor. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work.

LIMITATION OF FUTURE CONTRACTING (HEADQUARTERS SUPPORT)
(EPAAR 1552.209-74) (MAR 1997) ALTERNATE V (MAY 1994) (SECTION H)

(a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.

(b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.

(c) During the life of the contract, and for a period of five (5) years after the completion of the contract, unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor shall not enter into a contract: (1) with owners or operators of facilities that may be impacted by enforcement and compliance activities performed under a work assignment as regulated parties under the Clean Water Act (CWA); Safe Drinking Water Act (SDWA); Marine Protection, Research and Sanctuary Act (MPRSA); Clean Air Act (CAA); Resource Conservation and Recovery Act (RCRA); Oil Pollution Act (OPA); Pollution Prevention Act (PPA); Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Superfund Reauthorization and Amendments Act (SARA); Toxic Substance Control Act (TSCA); Federal Facility Compliance Act (FFCA); National Environmental Policy Act (NEPA); Emergency Planning and Community Right-to-Know Act (EPCRA); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); Asbestos Hazard Emergency Response Act (AHERA); and Mercury-Containing and Rechargeable Battery Management Act (Battery Act); or 2) to act as a consultant to any such regulated parties that may be impacted by enforcement and compliance activities performed under a work assignment.

(d) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

(e) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.

(f) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (f), unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

(g) If the Contractor seeks an expedited decision regarding its initial

future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.

(h) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION EPAAR 1552.209-72 (SECTION K)

The offeror [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing this information. (See Section L of the solicitation for further information.)

ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION EPAAR 1552.209-70 (Section L)

(a) The prospective Contractor certifies, to the best of its knowledge and belief, that it is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the prospective Contractor cannot so certify, it shall provide a disclosure statement in its proposal which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executives and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.

(b) Prospective Contractors should refer to FAR Subpart 9.5 and EPAAR Part 1509 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

(c) If the Contracting Officer determines that a potential conflict exists, the prospective Contractor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

ORGANIZATIONAL CONFLICT OF INTEREST PLAN (SECTION L)

As part of the initial offer, Offerors shall submit an Organizational Conflict of Interest (COI) Plan which outlines the procedures in place to identify and report conflicts of interest, whether actual or potential, throughout the period of performance of the contract. The plan shall address step-by-step the checks and balances in place to detect potential or actual COIs, organizationally and with personnel, that could result from activities covered by the Statement of Work. The COI Plan shall be incorporated into any resulting contract.

The COI plan shall be evaluated in accordance with the provision in Section M entitled "Evaluation of Conflict of Interest Plan."

The Agency's minimum standards for Organization Conflict of Interest Plans is included in the Section M Clause "Minimum Standards for EPA

Contractor's Conflict of Interest Plans."

DETERMINATION OF RESPONSIBILITY -- CONFLICT OF INTEREST (SECTION L)

a. The Contracting Officer will perform a determination of responsibility for the apparent successful offeror in accordance with FAR 9.104. The responsibility determination will include, among other factors, consideration of any actual or potential organizational conflicts of interest that the apparent successful offeror has. If the Contracting Officer determines that the apparent successful offeror has an actual or potential conflict of interest which, in the Contracting Officer's opinion, cannot reasonably be avoided, neutralized or mitigated, the offeror, after being given an opportunity to address the CO's concerns, may be determined to be non-responsible and will be deemed ineligible for award.

b. In assessing the potential for conflicts of interest, the Contracting Officer will review the information furnished in response to the Section (L) provision entitled, "Disclosure of Potential Organizational Conflicts of Interest" (as well as information submitted under the solicitation's other conflict of interest provisions) and the Conflict of Interest Plan furnished in accordance with the Section (L) provision entitled "Organizational Conflict of Interest Plan." As stated in the "Disclosure of Potential Organizational Conflicts of Interest" provision below, there is no precise formula for determining what would represent an acceptable level of risk to the Government when considering conflict of interest issues. The Conflict of Interest Plan will, however, be evaluated as acceptable or unacceptable based on the following:

1. The "Minimum Standards for EPA Contractor's Conflict of Interest Plans" (Section M Clause);

2. The adequacy of the offeror's generic plan for avoiding, neutralizing, or mitigating actual or potential organizational conflicts of interest that may arise following contract award; and

3. The adequacy of the offeror's plan for avoiding, neutralizing or mitigating existing actual or potential organizational conflicts of interest that were identified prior to contract award.

Therefore, an apparent successful offeror who submits a Conflict of Interest Plan that is determined to be unacceptable at the time of contract award will be considered non-responsible and not be eligible for award.